IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1653 OF 1990.

Computer Karishma Pvt. Ltd. ... Petitioner.

V/s.

Principal Collector of Customs,
Bombay and others. ... Respondents.

Prakash Shah i/b. M/s.PDS Legal
for the petitioner.

P.S.Jetly for the respondents.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 16th June 2006.

P.C. :

. During the course of hearing, it has come to our notice that while transcribing the order dated 14th June, 2006, a typographical error has crept in. The amount of cost awarded was in the sum of Rs.5,000/-. However, in the order, in para-2; it was typed as Rs.500/-.

. Accordingly, figure of Rs.5,000/- be substituted in the place of Rs.500/-. Order accordingly.

2. At this stage, the learned counsel appearing for the petitioner submits that amount of

costs in the sum of Rs.5,000/- has been paid to the Legal Services Committee. He has tendered receipt thereof. Zerox copy of the receipt is taken on record.

3. The petitioner in this petition is dealing in import and marketing of photo type setting/ photo type composing systems of various configurations. They are in the business for quite some time and operating the same under valid licence. The dispute is essentially generated on account of the respondents not allowing the clearance of various consignments of goods which have been imported under that licence. A detailed discussion of the factual aspects is not necessary for disposal of this petition.

4. This Court while granting rule in this petition was pleased to grant interim relief and allow the clearance of the concerned consignment on petitioner's paying basic customs duty at the rate of 35% on the said consignment plus 5% auxiliary duty with P.D.Bonds for the differential duty i.e. the difference between 107% ad-valorem and 40$ ad-valorem customs duty with bank guarantee of a nationalised bank for 25% of the differential duty.

5. In pursuance of the aforesaid interim order, the consignments covered by the relevant bills of entry and invoices pertaining to the petitioners were allowed to be cleared. In other words, the interim order operated in favour of the petitioner and the goods were allowed to be cleared on compliance of the above conditions.

6. Now what remains is the final adjudication of duty liability or finalisation of the provisional assessment on the basis which the goods were allowed to be cleared.

7. The learned counsel appearing for the petitioner submits that the petitioner shall have no objection if the respondents are permitted to finally adjudicate upon the duty liability so as to finalise the provisional assessment made by them. The petitioner, through their counsel, undertook to co-operate with the adjudicating authority in the adjudication proceeding.

8. The learned counsel appearing for the Revenue/ adjudicating authority also desired to finally adjudicate upon the duty liability of the

petitioner so as to make the provisional assessment final within a period of four months from today, after following principles of natural justice.

9. Having heard the rival parties and looking to the consensus between the parties, we also feel that the duty liability can be more conveniently adjudicated upon in the departmental adjudication proceedings in which the disputed questions of fact can also be gone into which this Court may not be able to resolve in exercise of its writ jurisdiction under Article 226 of the Constitution of of India.

10. In the above premises, Revenue is directed to proceed with the adjudication proceedings as expeditiously as possible and to finally conclude the assessment proceedings within four months from today.

11. The petitioner shall keep the bank guarantee renewed and alive till the completion of adjudication proceedings and eight weeks thereafter. If the adjudication proceedings are not completed within four months from today, bank guarantee shall stand discharged and, in that event, petitioner would be relieved of their obligation to keep the bank guarantee alive.

12. If the adjudication proceeding are not completed within four months from today and delay results in discharge of bank guarantee, then in that event, the Chief Commissioner of Customs is directed to hold enquiry to fix the responsibility for the delay and consequent loss suffered by the Revenue and should submit report to this Court within four weeks thereafter.

13. With these directions, petitions stands disposed of. Rule is made absolute in terms of this order with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.DAGA J.)**